

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-00-TP-684
Cumulus Licensing Corp.)	NAL/ Acct. No. 200132700002
)	
Tallahassee, FL)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: October 26, 2000

By the Enforcement Bureau, Tampa District Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find Cumulus Licensing Corporation, licensee of Stations WHBX(FM), Tallahassee, Florida, WHBT(AM), Tallahassee, Florida, and WWLD(FM), Tallahassee, Florida, apparently liable for a forfeiture in the amount of twenty four thousand dollars (\$24,000) for violation of Section 11.35(a) of the Commission's rules, 47 C.F.R. § 11.35(a), which requires Emergency Alert System (EAS) equipment to be installed and operating at broadcast stations. We find that the required EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment was not installed, nor had ever been purchased for these three stations.

II. BACKGROUND

2. On August 31, 2000, an agent of the Tampa District Office inspected stations WHBX(FM), Tallahassee, Florida, WHBT(AM), Tallahassee, Florida, and WWLD(FM), Tallahassee, Florida. A station engineer who represented all three of these stations advised the agent during the inspections that none of these stations had purchased EAS equipment. Consequently, the stations were unable to send or receive EAS test and alerts.

III. DISCUSSION

3. Based on the evidence before us, we find that on August 31, 2000, Cumulus Licensing Corporation willfully¹ violated Section 11.35(a), of the Commission's Rules² by not having Emergency Alert System (EAS) equipment installed and operating at Stations WHBX(FM), Tallahassee, Florida, WHBT(AM), Tallahassee, Florida, and WWLD(FM), Tallahassee, Florida.

¹ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

² 47 C.F.R. § 11.35(a)

4. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* ("Forfeiture Policy Statement"), the base forfeiture amount is \$8,000 each for not having EAS equipment installed or operational.³ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Cumulus Licensing Corporation's violations were repeated and willful. Applying the *Forfeiture Policy Statement* and statutory factors to the instant case, an \$24,000 forfeiture is warranted.

IV. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁶ Cumulus Licensing Corp. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty four thousand dollars (\$24,000) for violating Section 11.35(a) of the Commission's Rules⁷

6. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,⁸ within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Cumulus Licensing Corp. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

7. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200132700002 .

8. The response if any must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – TPSD and MUST INCLUDE the NAL/Acct. No. referenced above.

9. The Commission will not consider reducing or canceling a forfeiture in response to a

³ 12 FCC Rcd 17087 (1997), *recon. denied*, FCC 99-407 (rel. December 28, 1999).

⁴ 47 U.S.C. § 503(b)(2)(D). *See also Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01 (discussion of upward and downward adjustment factors).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁷ 47 C.F.R. § 11.35(a)

⁸ 47 C.F.R. § 1.80.

claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

10. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.⁹

11. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Cumulus Licensing Corp., 3411 West Tharpe Street, Tallahassee, FL 32303.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director
Tampa District Office

⁹ See 47 C.F.R. § 1.1914.